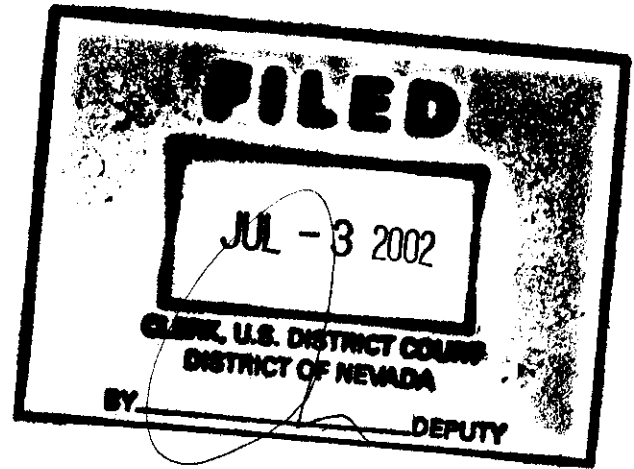


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Sofa Connection, Inc.

ORIGINAL



UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CV-S-02-0908-JCM-RJJ

SOFA CONNECTION, INC.,
a Tennessee corporation,

Plaintiff,

-vs-

DIAMOND HEAD, d/b/a SOFA
COLLECTION, a Nevada corporation,
RACHEL KOREN, an individual and
LEIBEL ARI KOREN, an individual

Defendants.

COMPLAINT

Plaintiff, Sofa Connection, Inc. ("Plaintiff"), by and through its undersigned counsel,
sues Defendants Diamond Head, d.b.a. Sofa Collection, Rachel Koren, individually and
Leibel Ari Koren, individually (collectively "Defendants") for injunctive and declaratory
relief and damages under the laws of the United States and the State of Nevada and states as
follows:

Jurisdiction and Venue

1
2 1. This is an action for service mark and trademark infringement and unfair
3 competition arising under the Trademark Act of 1946, as amended ("Lanham Act"), 15
4 U.S.C. § 1051 *et seq.*, and under the statutory law of the state of Nevada.

5 2. This Court has jurisdiction over the Counts in this ~~Complaint~~ under 15
6 U.S.C. §1121, and 28 U.S.C. §§1331, 1338, 2201 and/or 2202.

7 3. Venue is proper in this Court under 28 U.S.C. §1391(b)(1) and/or
8 §1391(b)(2).
9

The Parties

10
11 4. Plaintiff Sofa Connection, Inc. is a corporation organized under the laws of
12 the state of Tennessee having a principal place of business at 725 Myatt Drive, Madison,
13 Tennessee 37115.

14 5. On information and belief, Defendant Diamond Head, d.b.a. Sofa Collection,
15 is a corporation of the state of Nevada with places of business at 1244 S. Rainbow Blvd.,
16 Las Vegas, Nevada 89146 and 1485 E. Flamingo, Las Vegas, Nevada 89119.

17 6. On information and belief, Defendants Leibel Ari Koren and Rachel Koren
18 have a place of business or reside at 1508 Becke Circle, Las Vegas Nevada 89104.
19

Statement of Facts

20
21 7. Plaintiff is and has been continuously since at least 1989 engaged in the
22 business of providing retail furniture store services and/or goods using the trademark SOFA
23 CONNECTION.
24

25 8. A Federal Service Mark Registration No. 2,477,109, issued August 14, 2001
26 to Sofa Connection, Inc. for the mark SOFA CONNECTION for retail furniture store
27
28

1 services. The registration is in full force and effect. A true copy of Registration No.
2 2,477,109 is appended hereto as Plaintiff's **Exhibit A**.

3 9. Plaintiff offers its services and/or goods through stores using the trademark
4 SOFA CONNECTION in multiple markets, including one located at 2100 South Rainbow
5 Drive, Las Vegas, Nevada 89102, which has operated under the trademark SOFA
6 CONNECTION since about February 2000.

7
8 10. Plaintiff has expended substantial resources in advertising and promotion of
9 its trademark SOFA CONNECTION, and it engages in extensive promotion of its services
10 and/or goods sold under its trademark.

11 11. Plaintiff, through its own significant efforts, skill and experience, has
12 acquired and now enjoys substantial goodwill and a valuable reputation through its use of
13 the SOFA CONNECTION mark. The maintenance of high standards of quality and
14 excellence for Plaintiff's services and/or goods has contributed to this valuable goodwill and
15 reputation.
16

17 12. As a result of Plaintiff's efforts to promote its services and/or goods under
18 the trademark SOFA CONNECTION, the mark has acquired, in the minds of the public, a
19 secondary meaning and has become a distinctive mark denoting care, skill, industry,
20 reliability, and high quality to the eye and mind of the public. The services and/or goods
21 offered by Plaintiff under its trademark have enjoyed a high degree of public recognition
22 over the years so that members of the public have associated, and will continue to associate,
23 the quality and reputation of services and/or goods marketed under the mark SOFA
24 CONNECTION with Plaintiff. As a result of long-standing use, substantial sales,
25 significant advertising and promotional activities, the mark SOFA CONNECTION has
26 become well known and associated with Plaintiff. The mark SOFA CONNECTION serves
27
28

1 to distinguish Plaintiff's services and/or goods from the services and/or goods of others. As
2 a further result of Plaintiff's efforts and sales, the trademark SOFA CONNECTION is
3 generally recognized by the public as being associated exclusively with the services and/or
4 goods of Plaintiff. Because of such reputation and public awareness, Plaintiff has
5 established valuable goodwill in connection with its trademark SOFA CONNECTION, and
6 said mark has become famous.

7
8 13. Plaintiff has taken active steps to protect its trademark SOFA
9 CONNECTION so that it will continue to be associated with, and denote, Plaintiff's services
10 and/or goods.

11 14. The goodwill associated with the trademark SOFA CONNECTION is one of
12 Plaintiff's most valuable assets.

13 15. Despite Plaintiff's well-known and prior statutory and common law rights in
14 the SOFA CONNECTION mark, Defendants adopted and began using the trademark SOFA
15 COLLECTION in this District for retail furniture store services on or about September
16 2000.

17
18 16. Defendants' advertising, offering for sale and sale of goods and services
19 under the mark SOFA COLLECTION are likely to cause confusion, or to cause mistake, or
20 to deceive the public into believing that Defendants' goods and services originate with
21 Plaintiff, or are sponsored by Plaintiff, are offered with the approval of Plaintiff, or are
22 offered under Plaintiff's supervision and control.

23
24 17. Defendants' confusingly similar use of the mark SOFA COLLECTION is
25 without permission, authority, or license from Plaintiff.

26 18. Since Plaintiff is neither associated with nor exercises control over the
27 Defendants, Defendants' use of the mark SOFA COLLECTION is likely to be attributed to
28

1 Plaintiff and constitutes a threat to Plaintiff's good will and reputation.

2 19. On March 25, 2002, Plaintiff sent a letter to Defendant Leibel Ari Koren and
3 Defendant Diamond Head, d.b.a. Sofa Collection at its Rainbow location notifying them of
4 Plaintiff's Registration No. 2,477,109 and Plaintiff's superior rights in the SOFA
5 CONNECTION trademark, and demanding that Defendants cease any use of the SOFA
6 COLLECTION mark likely to cause confusion, mistake or to deceive. Defendants did not
7 respond to this letter, a true copy of which is appended as **Exhibit B**, despite receiving it on
8 March 29, 2002.
9

10 20. On May 17, 2002, Plaintiff's attorney sent a letter to Defendant Leibel Ari
11 Koren, registered agent for Defendant Diamond Head, d.b.a. Sofa Collection at his Becke
12 Circle address, which was received on May 21, 2002. This letter demanded that Defendants
13 cease their use of the trademark SOFA COLLECTION, and offered a possible settlement in
14 which Defendants could phase out their infringing use. Defendants did not respond to this
15 letter, a true copy of which is appended as **Exhibit C**.
16

17 21. On May 23, 2002, Plaintiff's attorney sent another letter to Defendant Leibel
18 Ari Koren, informing Defendants of 13 instances of actual confusion that had occurred in
19 the preceding three week period. Defendants did not respond to this letter, a true copy of
20 which is appended as **Exhibit D**.
21

22 22. Despite Plaintiff's efforts, Defendants have, with full knowledge of
23 Plaintiff's rights and Federal Trademark Registration, ignored Plaintiff's demands and, upon
24 information and belief, continue to use the SOFA COLLECTION mark in a manner
25 calculated to cause confusion, mistake, or to deceive the public as to the source of
26 Defendants' goods and services or cause a false belief that Plaintiff is associated with
27 Defendants.
28

23. Upon information and belief, Defendants' use of the mark SOFA COLLECTION was and is intended to capitalize on the goodwill associated with Plaintiff's registered trademark SOFA CONNECTION and to mislead the purchasing public into believing Defendants' services are authorized, connected with, sponsored or approved by Plaintiff.

24. Plaintiff has recorded at least seventeen (17) instances of actual confusion by consumers in the period between April 29 and June 10, 2002, as evidenced by true copies of documents created contemporaneously by Plaintiff's employees, appended as **Exhibit E**.

25. By their wrongful acts, Defendants have caused, and, unless restrained by the Court, will continue to cause, serious and irreparable injury and damage to Plaintiff and to the goodwill associated with its mark SOFA CONNECTION. These wrongful acts have caused, and will continue to cause, grave injury to the public as well.

26. By using the confusingly similar mark SOFA COLLECTION, Defendants are subjecting the reputation and goodwill of Plaintiff in its SOFA CONNECTION trademark to irreparable injury and harm by reason of acts of Defendants or others over whom Plaintiff has no control.

27. Unless the foregoing acts of the Defendants are enjoined, Plaintiff has no adequate remedy at law.

COUNT I
(LANHAM ACT - TRADEMARK INFRINGEMENT - REGISTERED MARK)

28. Plaintiff hereby adopts and incorporates by reference the allegations of paragraphs 1-27 above as if fully set forth herein.

29. This Count arises under Section 32(1)(a) of the Lanham Act, 15 U.S.C. § 1114(1)(a).

30. The foregoing activities of Defendants constitute a use in commerce, and/or

1 having an effect on interstate commerce, of a reproduction or colorable imitation of the
 2 registered mark SOFA CONNECTION in connection with the sale, offering for sale,
 3 distribution, and advertising of Defendants' goods and services which is likely to cause
 4 confusion, or to cause mistake or to deceive. The use by Defendants of a colorable imitation
 5 of the federally registered mark SOFA CONNECTION, the commencement and
 6 continuation of such use, and all of the other acts of Defendants as heretofore alleged, create
 7 the likelihood that the public will be confused as to the source, sponsorship or affiliation of
 8 the goods and services of Plaintiff and Defendants, or will be led to believe mistakenly that
 9 there is some connection between Plaintiff and Defendants, as a result of which Plaintiff and
 10 the public have been, and are likely to be further, irreparably damaged.

11
 12 31. The aforesaid acts of Defendants constitute trademark infringement under 15
 13 U.S.C. §1114 and Plaintiff is entitled to the relief set forth below.
 14

15 COUNT II
 16 (LANHAM ACT - TRADEMARK INFRINGEMENT - COMMON LAW)

17 32. Plaintiff hereby adopts and incorporates by reference the allegations of
 18 paragraphs 1-31 above as if fully set forth herein.

19 33. This Count arises under Section 43(a) of the Lanham Act, 15 U.S.C. §
 20 1125(a).

21 34. Defendants' aforesaid acts constitute a use in commerce in connection with
 22 goods or services of a word or term that is likely to cause confusion, or to cause mistake, or
 23 to deceive as to the affiliation, connection, or association of Defendants with Plaintiff. The
 24 use by Defendants of the mark SOFA COLLECTION, the commencement and continuation
 25 of such use, and all of the other acts of Defendants as heretofore alleged, create the
 26 likelihood that the public will be confused as to the source, sponsorship or affiliation of the
 27 goods and services of Plaintiff and Defendants, or will be led to believe mistakenly that
 28

1 there is some connection between Plaintiff and Defendants as a result of which Plaintiff and
2 the public have been, and are likely to be further, irreparably damaged.

3 35. The aforesaid activities of Defendants constitute trademark infringement under
4 15 U.S.C. §1125(a) and Plaintiff is entitled to the relief set forth below.

5
6 COUNT III
(FEDERAL UNFAIR COMPETITION)

7 36. Plaintiff adopts and incorporates by reference the allegations of paragraphs 1-
8 35 above as if fully set forth herein.

9 37. This Count arises under Section 43(a) of the Lanham Act, 15 U.S.C. §
10 1125(a).

11 38. The use of the name, phrase, or mark SOFA COLLECTION by Defendants is
12 a false designation of origin as to any goods or services sold, advertised or promoted by
13 Defendants and constitutes unfair competition.

14 39. Defendants' aforesaid acts tend to represent falsely that Defendants' services
15 are legitimately connected with Plaintiff; tend to describe falsely that Defendants' services
16 emanate from or are authorized, sponsored or approved by Plaintiff; create the likelihood
17 that the public will be confused as to the source, sponsorship or affiliation of the services
18 and/or goods of Plaintiff and Defendants, or will be led to believe mistakenly that there is
19 some connection between Plaintiff and Defendants; and tend to designate falsely that
20 Defendants' services and/or goods originate from Plaintiff, all of which constitute violations
21 of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), as a result of which Plaintiff and
22 the public have been, and are likely to be further, irreparably damaged.

23 40. The aforesaid activities of Defendants constitute unfair competition under 15
24 U.S.C. §1125(a) and Plaintiff is entitled to the relief set forth below.

25
26
27
28 ///

COUNT IV
(NEVADA DECEPTIVE TRADE PRACTICES)

41. Plaintiff hereby adopts and incorporates by reference the allegations of paragraphs 1-40 above as if fully set forth herein.

42. Defendants' conduct herein alleged constitutes or imminently will constitute deceptive trade practices under Nevada Revised Statutes, N.R.S. §§ 598.0915, 598.0935, 598.0943, 598.0945, 598.0953. N.R.S. 41.600 provides for a private remedy for violations of 598.0915, et seq.

43. By reason of the foregoing, Plaintiff has sustained or will sustain substantial monetary injuries, loss and damages to its rights in the SOFA CONNECTION mark itself and Defendants have realized unlawful and unjust profits from its illegal conduct. Plaintiff will sustain further irreparable injury and damage to said rights if such deceptive trade practices are not enjoined.

44. The aforesaid activities of Defendants constitute deceptive trade practices under the Nevada Revised Statutes and Plaintiff is entitled to the relief set forth below.

WHEREFORE, Plaintiff prays for a judgment that:

1. U.S. Registration No. 2,477,109 is valid and enforceable; that Defendants have infringed on Plaintiff's rights in said registration under 15 U.S.C. § 1114; and that such infringement has been willful under 15 U.S.C. § 1117.

2. Defendants have violated 15 U.S.C. § 1125(a) by infringing on Plaintiff's rights in the mark SOFA CONNECTION and that such acts of Defendants constitute willful infringement under 15 U.S.C. § 1117.

3. Defendants have violated the Nevada Deceptive Trade Practices Act by infringing on Plaintiff's rights in the SOFA CONNECTION mark.

1 4. Defendants, their officers, agents, servants, affiliates, employees, attorneys,
2 and representatives and all those in privity or acting in concert with them, and each and all
3 of them, be permanently enjoined and restrained from directly or indirectly:

4 a. Using the names, phrases and/or marks SOFA CONNECTION, SOFA
5 COLLECTION, and/or any term confusingly similar thereto or any colorable
6 imitation thereof as a part of a trademark or service mark alone or in combination
7 with other words, names, styles, titles or marks in connection with selling, offering
8 for sale, distributing, exporting or advertising any goods or services;
9

10 b. Using the names, phrases and/or marks SOFA CONNECTION, SOFA
11 COLLECTION, and/or any term confusingly similar thereto or any colorable
12 imitation thereof as a part of a trademark or service mark alone or in combination
13 with other words, names, styles, titles or marks confusingly similar to the mark
14 SOFA CONNECTION, in association with any business that Defendants conduct,
15 own or control;
16

17 c. Holding themselves out as the owners of, or authorized to use a mark
18 confusingly similar to SOFA CONNECTION;

19 d. Performing any actions or using any words, names, styles, titles, or marks
20 which are likely to cause confusion, to cause mistake or to deceive; or to otherwise
21 mislead the trade or public into believing that Plaintiff and Defendants are one and
22 the same or are in some way connected; or that Plaintiff is a sponsor of Defendants;
23 or that Defendants are in some manner affiliated or associated with or under the
24 supervision or control of Plaintiff; or that the goods or services of Defendants
25 originate with Plaintiff or are conducted or offered with the approval, consent or
26
27
28

1 authorization, or under the supervision of Plaintiff; or are likely in any way to lead
2 the trade or the public to associate Defendants with Plaintiff;

3 e. Using any names, phrases, logos and/or marks which create a likelihood of
4 injury to the business reputation of Plaintiff, or a likelihood of misappropriation or
5 dilution of the SOFA CONNECTION mark and the goodwill associated therewith;
6 and

7
8 f. Using any trade practices whatsoever, including those complained of herein,
9 which tend to compete unfairly with or injure Plaintiff's business and the goodwill
10 attached thereto.

11 5. Defendants be required to deliver up for destruction, at their expense, all
12 stationery, business forms, signs, advertisements, labels, brochures, promotional materials,
13 and other written materials which bear the infringing phrase, name, logo or mark SOFA
14 COLLECTION or any other name, phrase, logo and/or mark confusingly similar to the
15 SOFA CONNECTION mark, together with all plates, molds, matrices and other means and
16 materials for making or reproducing the same.

17
18 6. Defendants be required to pay Plaintiff three times Plaintiff's actual damages
19 caused by the acts of Defendants, as well as Defendants' profits from sales of goods or
20 services under the logo, phrase, name and/or mark SOFA CONNECTION, SOFA
21 COLLECTION or any colorable imitation thereof, after an accounting.

22
23 7. Defendants be required to pay to Plaintiff all of Plaintiff's litigation
24 expenses, including reasonable attorney's fees and the costs of this action.

25 8. Defendants be required to pay to Plaintiff pre-judgment interest on the
26 amount awarded and post-judgment until paid, at a lawful rate.

27 ///
28

1 9. Plaintiff have such other and further relief as the Court may deem just and
2 proper.

3
4 Dated: July 2, 2002

SKINNER, WATSON & ROUNDS

By: 

Matthew D. Francis

Michael D. Rounds

548 California Avenue

Reno, Nevada 89509

KREMBLAS, FOSTER, PHILLIPS &
POLLICK

Jason H. Foster

7632 Slate Ridge Blvd.

Reynoldsburg, OH 43068

Attorneys for Plaintiff,
Sofa Connection, Inc.

LEGAL DIMENSIONS
800-535-7753

EX. A

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,477,109

United States Patent and Trademark Office

Registered Aug. 14, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

SOFA CONNECTION

SOFA CONNECTION, INC. (TENNESSEE COR-
PORATION)
725 MYATT DRIVE
MADISON, TN 37115

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "SOFA", APART FROM THE MARK
AS SHOWN.

FOR: RETAIL FURNITURE STORE SERVICES, IN
CLASS 35 (U.S. CLS. 100, 101 AND 102).

SER. NO. 75-670,438, FILED 3-30-1999.

FIRST USE 11-30-1989; IN COMMERCE 11-30-1989.

RICHARD DONNELL, EXAMINING ATTORNEY

LEGAL DIMENSIONS
800-535-7753

Ex. B

Sofa CONNECTION

March 25, 2002

Leibel Koren
1244 S. Rainbow Blvd.
Las Vegas, NV 89146

RE: *Infringement of SOFA CONNECTION®*

Dear Mr. Koren:

Sofa Connection Inc., is the owner of a federal registration of the service mark **SOFA CONNECTION®** related to retail furniture store services. We are in possession of an advertisement from your company (a copy is attached) that uses a mark and trade name, *Sofa Collection* (the "Mark"), deceptively similar in impression, sound and appearance to our registered service mark to advertise retail furniture store services. At least one location of your store uses your Mark within eyesight of one of our stores. This use of your deceptively similar Mark is without our authorization or consent.

Inasmuch as the services in question are directly competitive, your use of the Mark is capable of causing, and in fact has caused, confusion among customers, mistake as to the source of services, and diversion of sales from our stores. Your use of the Mark has resulted in irreparable damage to us and will continue to do so. Customers have suffered actual confusion as a result of your Mark in your advertisements, mistakenly believing it was our ad and seeking the promotion you advertised.

Your Mark is a clear attempt to capitalize on our goodwill and our service mark for commercial gain. We have been advised that your use of the Mark represents a clear infringement of our service mark and an encroachment upon our rights under the federal Lanham Act, federal and state unfair trade practices laws, and the common law.

We hereby demand that you:

1. Immediately cease and desist from using *Sofa Collection*, or any similar variations thereof, as a service mark or trade name in your advertising, in whatever media (including, without limitation, television, radio, print and internet based advertising) or on your business cards, letterhead, brochures and signage, or in any other medium;

2. Immediately destroy all materials in your possession or under your control (including signage) that incorporate the Mark or any variations thereof; and
3. Certify to us the carrying out of steps (1) and (2).

Remedies for violations of the Lanham Act and federal and state unfair trade practices laws include injunctions, statutory and actual damages, as well as the possibility of treble damages and attorneys fees.

If we do not receive assurance of your compliance with the above demands by **April 8, 2002**, we will have no choice but to take appropriate legal action to protect our rights.

Sincerely,
Sofa Connection Inc.



Mack Peters
President

ENCLOSURE

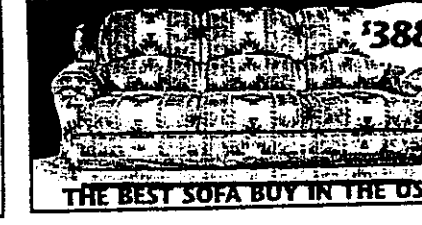
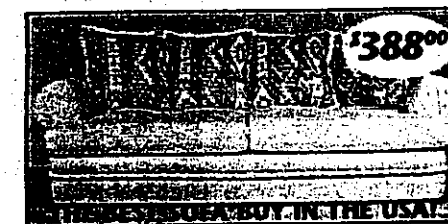
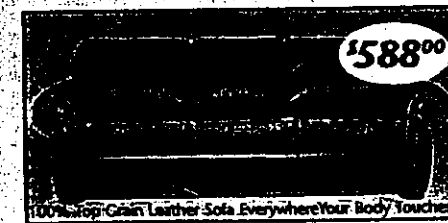
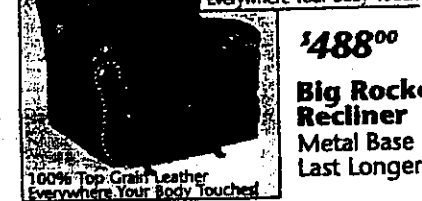
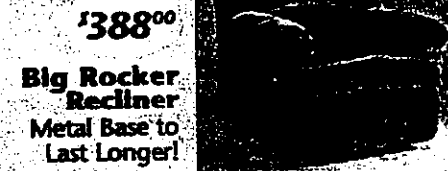
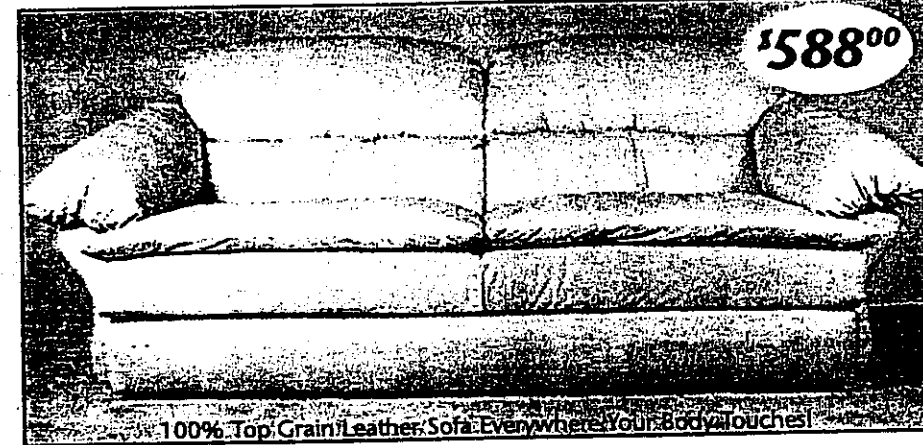
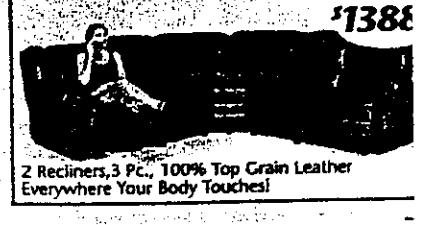
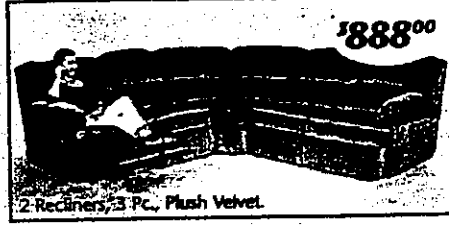
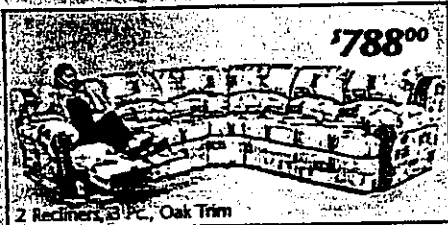
SM



YOUR COMPLETE SOLUTION!

*Nobody
Will Beat Our
Prices!*

**Before You Throw Your Money Away On Phony Liquidation Sale Prices,
Come See The True Savings You Get At Sofa Collection!**



Sofa
COLLECTION

1244 S. Rainbow Blvd.
Las Vegas, NV 89146 (Next to La-Z-Boy)
702-821-1526

1485 E. Flamingo
Las Vegas, NV 89119
702-893-1400

NOW
2 GREAT
LOCATIONS!!

100
Financing Available

Hours: Mon-Fri 10am-9pm • Sat 10am-6pm • Sun 11am-6pm

SENDER: COMPLETE THIS SECTION

- Complete 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Leibel Koren
Sofa Collection
1244 S. Rainbow Blvd.
Las Vegas NV 89146

2. Article Number (Copy from service label)

7000 0520 0021 3685 9161

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Print Clearly) B. Date of Delivery

Stacy Wallen 3/29/02

C. Signature

X Stacy Wallen

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

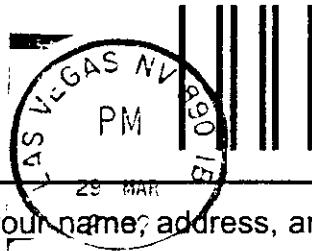
3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

UNITED STATES POSTAL SERVICE


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

SOFA CONNECTION
CORPORATE OFFICE
725 MYATT DR.
MADISON, TN 37115

Attn: Stacey Miller

91



U.S. Postal Service

CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

Leibel Koren 1244 S. Rainbow Blvd.

| | |
|---|---------|
| Postage | \$.34 |
| Certified Fee | 2.10 |
| Return Receipt Fee (Endorsement Required) | 1.50 |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & Fees | \$ 3.94 |



Recipient's Name (Please Print Clearly) (To be completed by mailer)

SOFA CONNECTION
CORPORATE OFFICE
725 MYATT DR.

1976 5896 1200 0250 000

LEGAL DIMENSIONS
800-535-7753

Ex. C

KREMBLAS, FOSTER, PHILLIPS & POLLICK

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Reynoldsburg, Ohio 43068
Phone: 614/575-2100
Fax: 614/575-2149
Email: kfmp@pattomeys.com
Web Page: www.pattomeys.com

Of Counsel:
Philip M. Dunson

May 17, 2002

Leibel Ari Koren
1508 Becke Circle
Las Vegas, NV 89104

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: Our Client: Sofa Connection
Our File No.: SOCOJ 100

Dear Mr. or Ms. Koren:

This firm has been retained by Sofa Connection, Inc., a Tennessee corporation doing business throughout the United States, including Las Vegas, Nevada. Sofa Connection, Inc. has been using its service mark SOFA CONNECTION in interstate commerce in connection with its retail furniture store services since at least as early as 1989. Additionally, Sofa Connection, Inc. has actively sought to protect its mark by obtaining Federal Trademark Registration Number 2,477,109, a copy of which is enclosed for your reference.

Customers have come to recognize the mark SOFA CONNECTION as indicating a source of furniture store services, and our client has accumulated a substantial goodwill and reputation in the mark. Your use of a nearly identical service mark in connection with the marketing, promotion or advertising of identical services creates the same commercial impression as Sofa Connection, Inc.'s mark and causes a likelihood of confusion, mistake or deception on the part of ordinary customers. Therefore, your use of Sofa Collection constitutes trademark infringement in violation of Title 15 of the United States Code, Chapter 22, Sections 1114 and 1125 and state common law.

Our client wrote to you on March 25, 2002 at your Rainbow Boulevard address. Because our client has not heard from you, we assume that you have misplaced the letter. If, however, you are ignoring this matter, be advised that we will not permit this to continue.

As you know from our client's letter, your use of the store name Sofa Collection is an infringement of our client's trademark rights. The marks are virtually identical in appearance, the goods and services are identical and the stores are within a fraction of a mile of one another

on the same street. Actual confusion has occurred, and continues to occur, and our client's reputation has been harmed.

Sofa Connection, Inc. has instructed us to secure your cessation of this infringement. Therefore, I am formally demanding that you immediately cease and desist from all use of the mark Sofa Collection and/or any confusingly similar marks, and promptly provide us with written assurances that you will cease and desist.

If you will immediately communicate your agreement to cease your infringing use of this service mark, our client would be willing to permit you a reasonable period to modify your signage and phase out these infringements, provided the time period for phasing them out is sufficiently small. If you promptly comply with our client's demands, our client will also provide you with a written release for past infringements.

In the event we are required to resort to legal action to secure your cessation of this infringement, we will aggressively seek to have a Federal Court enter a Judgment against you awarding our client damages, your profits and the costs of the legal action as provided in 15 U.S.C. Section 1117. Additionally, we will seek an Order that all infringing materials be destroyed as provided in 15 U.S.C. Section 1118, and that you provide an accounting of all sales of products sold in connection with the infringing mark and publish a notice informing customers that SOFA CONNECTION is the service mark of Sofa Connection, Inc.

Furthermore, in view of the notice provided to you by this letter, any **continued** use or advertising of the mark Sofa Collection by you will be considered a willful infringement, justifying an award of treble damages and attorney's fees to Sofa Connection, Inc. as provided in 15 U.S.C. Section 1117(b).

Although it will defend vigorously its trademark rights, it is our client's desire to resolve all conflicts amicably without the need to resort to legal proceedings against you. Your immediate response will be interpreted as evidence of your similar desire. On the contrary, if we do not hear from your company or its counsel within two weeks, we will conclude that you have no desire to resolve this matter informally. Our client will not stand by while this matter is ignored

Sincerely,


Jason H. Foster

JHF/cg

cc: Mack Peters
David Morris

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:
Leibel Ari Koren

| | | |
|---|----------------|------------------|
| Postage | \$.34 | Postmark Here |
| Certified Fee | 2.10 | |
| Return Receipt Fee (Endorsement Required) | 1.50 | |
| Restricted Delivery Fee (Endorsement Required) | | |
| Total Postage & Fees | \$ 3.94 | |

Name (Please Print Clearly) (to be completed by mailer)
Leibel Ari Koren
 Street, Apt. No., or PO Box No.
1508 Becke Circle
 City, State, ZIP+4
Las Vegas, NV 89104

PS Form 3800, July 1999 See Reverse for Instructions

| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY |
|--|--|
| <ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Received by (Please Print Clearly) B. Date of Delivery 5-21</p> <p>C. Signature X Rachael Koren <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> |
| <p>1. Article Addressed to: Leibel Ari Koren 1508 Becke Circle Las Vegas, NV 89104</p> <p>(SOCOJ 100)</p> | <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p> |
| <p>2. Article Number (Copy from service label) 7099 3400 0007 9829 8986</p> | |

LEGAL DIMENSIONS
800-635-7753

Ex. D

KREMBLAS, FOSTER, PHILLIPS & POLLICK

Attorneys At Law
Patents, Trademarks & Copyrights
Intellectual Property Law
Columbus, Ohio

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Frank H. Foster
Philip J. Pollick Co. LPA
Patrick P. Phillips
Jason H. Foster

Sidney W. Millard
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E. Paul Forgrave
1934-1998

7632 Slate Ridge Blvd.
Reynoldsburg, Ohio 43068
Phone: 614/575-2100
Fax: 614/575-2149
Email: kfmp@pattorneys.com
Web Page: www.pattorneys.com

Of Counsel:
Philip M. Dunson

May 23, 2002

Leibel Ari Koren
1508 Becke Circle
Las Vegas, NV 89104

RE: Our Client: Sofa Connection
Our File No.: SOCOJ 100

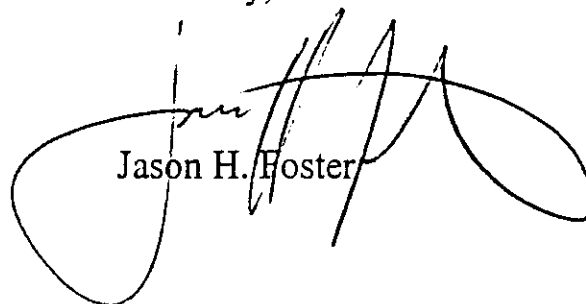
Dear Mr. or Ms. Koren:

As a follow-up to my letter dated May 17, 2002, it has come to my attention that there is a substantial amount of actual confusion taking place. As you may know, actual confusion is the term in trademark law for the situation in which consumers confuse one store for another. Our client has recorded at least 13 instances of actual confusion, in which people have contacted our client thinking it is your store, in the past three weeks alone.

You can see from these many instances of confusion that your infringing trademark has had the impact on commerce that trademark law forbids. Therefore, we repeat our demand that you immediately cease all use of "Sofa Collection" on advertisements, store signs, business cards, invoices and any printed documents or other media.

We await your response within one week of the date of this letter if you wish to resolve this matter amicably.

Sincerely,


Jason H. Foster

JHF/cg

cc: Mack Peters
David Morris

LEGAL DIMENSIONS
800-535-7753

Ex. E

05/16/2002 23:01 7024542795

SOFA CONNECTION 52

PAGE 01

MILLANDEPOLLOCK; 814 575 2149; May-17-02 9:48;

Page 4/4

Confused Customer Form

This form has been prepared to record the facts when a customer has contacted Sofa Connection when they intended to contact Sofa Collection, or vice versa. This is a significant problem, and this form is prepared to record the events surrounding any such events. Please fill the form out as completely as you can the same day as the event, or as soon after as you can. Then return the form to your supervisor or the store manager.

1. Employee Name DENISE2. Customer Name or other identification TIM (even portions;
for example, Mr. Smith, Jenny, telephone phone number)3. Date of event 4/29/02 4:10pm

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

was calling in regards to our firm he wanted
to buy a sofa. But he wanted to deal
directly with the owner.

Denise Ricks
Signature

4-29-02
Date

05/16/2002 23:01 7024542795

SOFA CONNECTION 52

PAGE 01

MILLANUS & POLLICK; 014 575 2149; May-17-02 0:40;

Page 4/4

Confused Customer Form

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1. Employee Name Denise2. Customer Name or other identification Lady (even portions;
for example, Mr. Smith, Jenny, telephone phone number)3. Date of event 5-01-02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

Customer came in looking for sectional # 888
that was in the paper

Denise Pollick 5-01-02
Signature Date

Confused Customer Form

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1. Employee Name Jeannette
2. Customer Name or other identification Customer (even portions; for example, Mr. Smith, Jenny, telephone phone number)
3. Date of event 5-14-02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

Customer came in looking for Amad, Realize they wanted Sofa Collection

Signature _____

Date _____

05/16/2002 23:01 7024542795

MILLANUS PULLICK; 814 575 2149;

SOFA CONNECTION 52

May-17-02 8:48;

PAGE 01

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Confused Customer Form

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1. Employee Name Denise

2. Customer Name or other identification MAN (even portions;
for example, Mr. Smith, Jenny, telephone phone number)

3. Date of event 5-17-02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

Man came in, he wanted to pay on Mrs. Shaw's order, but he was at the wrong store.

Denise Peltz
Signature

5-17-02
Date

05/16/2002 23:01 7024542795

SOFA CONNECTION 52

May-17-02 9:48;

PAGE 01

Page 4/4

Confused Customer Form

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1. Employee Name Elizabeth

2. Customer Name or other identification Jamie Rodgers 702)205 6491 (even portions;
for example, Mr. Smith, Jenny, telephone phone number)

3. Date of event 4/27/02 10:25 am

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

Calling to see when her order was going to be delivered

Elizabeth Chaney
Signature

05/17/02
Date

Confused Customer Form

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1. Employee Name Elizabeth
2. Customer Name or other identification Man (even portions; for example, Mr. Smith, Jenny, telephone phone number)
3. Date of event 5-13-02 1:15pm

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

asking to talk to John at Sofa Collection

Elizabeth Chany
Signature

05/17/02
Date

Confused Customer Form

This form has been prepared to record the facts when a customer has contacted Sofa Connection when they intended to contact Sofa Collection, or vice versa. This is a significant problem, and this form is prepared to record the events surrounding any such events. Please fill the form out as completely as you can the same day as the event, or as soon after as you can. Then return the form to your supervisor or the store manager.

1. Employee Name Tammie C.
2. Customer Name or other identification Pamela Whitner (even portions;
for example, Mr. Smith, Jenny, telephone phone number) 568-1944
3. Date of event 05/18/02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

Calling for Sofa Collections on the phone number
and directions on cross roads.

Tammie C.
Signature

05/18/02
Date

Confused Customer Form

This form has been prepared to record the facts when a customer has contacted Sofa Connection when they intended to contact Sofa Collection, or vice versa. This is a significant problem, and this form is prepared to record the events surrounding any such events. Please fill the form out as completely as you can the same day as the event, or as soon after as you can. Then return the form to your supervisor or the store manager.

1. Employee Name KAY QUARANTA
2. Customer Name or other identification RICHARD HICKMAN (even portions;
for example, Mr. Smith, Jenny, telephone phone number) 492-7332
3. Date of event 5-18-02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

MR HICKMAN & HIS WIFE CAME IN AND SAID THAT
THEY SAW OUR ADD IN THE NEWSPAPER. IT WAS
SOFA COLLECTIONS ADD!!

Kay S. Quaranta 5-18-02
Signature Date

Confused Customer Form

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1. Employee Name JACKIE ZAHROBSKY
2. Customer Name or other identification Steve Bajorek (even portions;
for example, Mr. Smith, Jenny, telephone phone number) (702) 591-8096
3. Date of event 5-12-02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

SAW AD in Sunday Flyers 5-12-02
Said I SAW YOUR AD. I SAID THIS
IS Sofa Collection NOT Sofa
Connection's AD.

Jackie Zahrobky 5-19-02
Signature Date

Confused Customer Form

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1. Employee Name Denise

2. Customer Name or other identification Mrs. Urso (even portions;
for example, Mr. Smith, Jenny, telephone phone number)

3. Date of event 5-22-02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

- Lady call to see if he order was in

Denise 5-22-02
Signature Date

Confused Customer Form

This form has been prepared to record the facts when a customer has contacted Sofa Connection when they intended to contact Sofa Collection, or vice versa. This is a significant problem, and this form is prepared to record the events surrounding any such events. Please fill the form out as completely as you can the same day as the event, or as soon after as you can. Then return the form to your supervisor or the store manager.

1. Employee Name Denise
2. Customer Name or other Identification Man (even portions;
for example, Mr. Smith, Jenny, telephone phone number)

3. Date of event 5-22-02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

Man came in With an add for
Sofa Collection

Denise 5-22-02
Signature Date

06/24/2002 17:02 702367

SOFA CONNECTION 52
SOFA CONNECTION06/16/2002 23:01 7024542795
L.P. STELLER FURNITURE MILLARDVILLE; 814 575 2148;SOFA CONNECTION 52
May-17-02 9:48;PAGE 8:
Page 4/4

Confused Customer Form

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1. Employee Name J Denise

2. Customer Name or other identification Mr. Shannon (even portions; for example, Mr. Smith, Jenny, telephone phone number)

3. Date of event 5-23-02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page (if necessary), or attach any notes you made at the time.

Customer called wanted to know
status of order.

J Denise
Signature

5-23-02
Date

SOFA CONNECTION 52
SOFA CONNECTION

05/27/2002 12:39 7023671

05/16/2002 23:01 7024542795

SOFA CONNECTION 52

PAGE 01

MELLANUS PULLACK; 814 575 2140; May-17-02 9:48; Page 4/4

Confused Customer Form

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1. Employee Name

Jeanette Measels

2. Customer Name or other identification

Mrs Boyd (even portions;
for example, Mr. Smith, Jenny, telephone phone number)

3. Date of event

5/27/02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page (if necessary, or attach any notes you made at the time.

Mrs Boyd called wanted to know
when we are going to deliver her
China Cabinet, asked for Stacey
told her she wanted Sofa Collection

Signature

Date

Prattville, AL 36068 (205) 833-1000 (05/02) 100% Satisfaction Form.doc

Confused Customer Form

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1. Employee Name Charles W. L.
2. Customer Name or other identification Mrs Emily Perles (even portions;
for example, Mr. Smith, Jenny, telephone phone number) 702 274 3684
3. Date of event 5/30

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

Came in looking for mailer
got confused as to the
name of store

Emily Perles
Signature

Date

Confused Customer Form

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1. Employee Name Elizabeth
2. Customer Name or other identification A lady (even portions; for example, Mr. Smith, Jenny, telephone phone number)
3. Date of event 06/09/02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

A lady called she asked for the phone number of our other store located in Rainbow. I told her we only have one store in Rainbow and she was probably confusing us with Sofa Collection she said OK thank you and hung up.

Elizabeth Chavez 06/19/02
Signature Date

06/16/2002 23:01 7024542795

SOFA CONNECTION 52

PAGE 01

May-17-02 8:40;

Page 4/4

Confused Customer Form

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1. Employee Name Elizabeth

2. Customer Name or other identification unknown (man) (even portions;
for example, Mr. Smith, Jenny, telephone phone number)

3. Date of event 06/10/02

4. The circumstances as you recall them: (for example, Mr. Smith called the store and asked why we had not delivered his sofa. When we found no record of the sale, I asked if he meant to call us or Sofa Collection. He said he meant Sofa Collection. I apologized for the confusion, told him we were doing something about it, and told him we were not related to them. He hung up.) Use an attached page if necessary, or attach any notes you made at the time.

a man called wanting to know the phone number for
our store, located in Maryland. I told him we were not
located in Maryland. He said he was most likely mistaken
with another store, he hung up.

Elizabeth Cherry 06/10/02
Signature Date